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*Attorneys for Defendants The State of Arizona,  
Arizona Department of Child Safety (“DCS”),  
Sarah Kramer, Sarah Mendez, Madison Bell, Mecca  
Temple, Gregory McKay, and Michael Faust*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Jessica Kahraman, an individual; D.K., a minor, through his parent and guardian Jessica Kahraman; and K.K., a minor, through his parent and guardian Jessica Kahraman.

v.  
Plaintiffs,

The State of Arizona, a governmental entity,  
et al..

### Defendants.

Case No. 2:22-cv-00375-SRB

**DEFENDANTS' STATEMENT OF  
FACTS IN SUPPORT OF MOTION  
FOR SUMMARY JUDGMENT**

Defendants State of Arizona, Arizona Department of Child Safety (“DCS”), Madison Bell (“Bell”) and Mecca Temple (“Temple”) (collectively, “State Defendants”) hereby submit their Statement of Facts in Support of their Motion for Summary Judgment pursuant to Rule 56(c), Fed.R.Civ.P., and Local Rule 56.1 as follows:

1. Six-year-old Kenan Kahraman (“KK”) was hospitalized at Banner Desert Medical Center/Cardon Children’s Hospital between 12/18/2018 and 1/7/2019 due to severe malnutrition caused by his mother and father, Jessica Kahraman (“Jessica”) and Ahmet Kahraman (“Ahmet”) (See **Exhibit 1**-medical records of KK, authenticated by treating hospitalist Dr. Ryan Stewart (“Dr. Stewart”), and **Exhibit 2**, Dr. Stewart deposition transcript, p. 13, l. 6 to p. 22, l. 6.)

1       2.     KK was admitted with acute right heart failure, failure to thrive, anasarca  
2 (generalized edema), lower extremity weakness, pleural effusion, pulmonary hypertension,  
3 retarded development and malnutrition. (*See Ex. 1*).

4       3.     The discharge diagnosis for KK was right ventricular dysfunction, pulmonary  
5 hypertension, anasarca, protein energy malnutrition, failure to thrive, and suspected child  
6 abuse. (*See Ex. 1*)

7       4.     The Cardon Suspected Child Abuse and Neglect (“SCAN”) Team got involved  
8 for KK. (*See Ex. 2*, p. 15, l. 20-25)

9       5.     Malnutrition was the cause of these severe conditions and Mom (Jessica) was  
10 the cause of KK’s malnutrition. (*See Ex. 2*, p. 21, l. 9-24)

11       6.     Malnutrition was the most likely, most probable cause for all these symptoms  
12 and the compromised medical condition of KK and Mom was the cause of KK’s  
13 malnutrition. (*See Ex. 2*, p. 21, l. 1-6)

14       7.     KK had potential threat to life and limb without medical intervention. (*See Ex.*  
15 **2**, p. 31, l. 19 to p. 32, l. 6; p. 38 l. 25 to p. 39, l. 9)

16       8.     Dr. Stewart’s opinion was that KK was in danger of this happening again and  
17 potentially life-threatening, and that the State would need to allow “us” to feed the child.  
18 (**Ex. 2**, p. 52, l. 5-21; p. 54, l. 11-14; p. 58, l. 25 to p. 59, l. 21)

19       9.     Mom misperceived food allergies and intolerances and whiteboard markers.  
20 (**Ex. 2**, p. 67, l. 12-15; p. 69, l. 2-16)

21       10.    Dr. Stewart and the SCAN Team members told this to DCS regarding KK’s  
22 severe malnutrition. (**Ex. 2**, p. 70, l. 1-11; p. 73, l. 4-6)

23       11.    Mom resisted hospital efforts to treat KK. (**Ex. 2**, p. 78, l. 8-14)

24       12.    KK was in medical compromise with no physiologic reason and it was not safe  
25 for him to go home with Mom. Dr. Stewart recommended that DCS take over decisions on  
26 what the patient could eat. (**Ex. 2**, p. 82, l. 1 to p. 84, l. 12)

27       13.    Whiteboard markers did not cause KK’s condition. (**Ex. 2**, p. 37, l. 14-16)

28       14.    Sarah Kramer (“Kramer”) was the DCS Investigating Case Worker who

1 responded to the child neglect hotline call made by the healthcare providers at Cardon  
 2 Children's Hospital ("Cardon"). (**Ex. 3**, p. 187-201, **Ex. 201, 203, 204, and 208**)

3       15. Kramer prepared the Application and Declaration for Ex Parte Removal of  
 4 Children Under Oath and Judge Melissa Zabor issued the Order for Ex Parte Removal of  
 5 twin brothers KK and DK Kahraman on 12/28/2018. (**Ex. 3**, p. 188, l. 17-22, **Ex. 201**)

6       16. On 12/23-24, 2018, twin Brother Dylan Kahraman ("DK") had diagnostic  
 7 laboratory testing and a medical evaluation. DK had significant malnutrition, electrolyte  
 8 abnormalities, and an abnormal ECG likely related to nutritional deficits. (**Ex. 201, 203**)

9       17. **Ex. 204** is the Order setting hearings on Dependency Petition and Temporary  
 10 Orders issued 1/4/2019 by Commissioner Shelley Smith.

11       18. Mother Jessica and Father Ahmet did not attend the Team Decision Making  
 12 Meeting. (**Ex. 3**, p. 189, l. 25 to p. 190, l. 2)

13       19. The parents were not speaking with DCS or participating with Team Decision  
 14 Making for their sons KK and DK. (**Ex. 3**, p. 190, l. 3 to p. 192, l. 8)

15       20. On 1/4/2019 Commissioner Smith ordered DK and KK be made temporary  
 16 wards of the Court; found that continuation of the children in the home would be contrary to  
 17 the children's welfare; both children were assessed by medical providers as being  
 18 malnourished; the parents' belief that the children had food allergies and were exposed to  
 19 dry erase markers was without basis; both children were unable to walk for the past 2 months;  
 20 and Mother admitted she obtained wheelchairs for the children despite there being no  
 21 medical recommendation they were necessary. (**Ex. 204**)

22       21. Commissioner Smith found DCS made reasonable efforts to prevent removal  
 23 of the children from the home, and since removal from the home, the children's eating and  
 24 medical status has improved. (**Ex. 204**, p. 4)

25       22. Also on 1/4/19, Commissioner Smith ordered the involvement of the court-  
 26 appointed special advocate ("CASA"), the Foster Care Review Board ("FCRB"), appointed  
 27 a Guardian Ad Litem, and appointed separate lawyers for Jessica and Ahmet. (**Ex. 204**)

28       23. Kramer prepared and filed a Comprehensive Report to the Juvenile Court on

1 1/8/2019 regarding the removal of KK and DK, including that KK and DK had severe and  
2 significant malnutrition due to the very restrictive diet imposed by the parents. (**Ex. 203**)

3 24. Kramer relied on the medical team at Cardon and with medical intervention  
4 the decline in both boys' health was halted and their condition improved with proper nutrition  
5 and support. (**Ex. 3**, p. 195, l. 8; p. 196, l. 20)

6 25. On 1/9/19 the Preliminary Protective Hearing was held before Judge David  
7 Udall. The Court ordered continuing the children as temporary wards of the Court, found  
8 that DCS had made reasonable efforts to prevent the removal of the children from the home,  
9 and that continuation in the home would be contrary to the welfare of the children. (**Ex. 208**)

10 26. Kramer acted reasonably and pursuant to statute. (**Ex. 3**, p. 199, l. 16 to p. 201,  
11 l. 1.

12 27. Madison Bell ("Bell") was an ongoing case manager. She is not an investigator  
13 as defined in Arizona statutes. (**Ex. 4**, p. 320, l. 15 to p. 321, l. 25)

14 28. Bell prepares reports for the Juvenile Court in Dependency Proceedings,  
15 testifies in court, follows court orders, and works with Assistant Attorney Generals ("AAG")  
16 who are the legal representatives of the State of Arizona. (**Ex. 4**, p. 322, l. 1-23)

17 29. The AAGs draft pleadings and file responsive pleadings. (**Ex. 4**, p. 322, l. 24  
18 to p. 323, l. 13)

19 30. The court controls the Dependency Proceedings and Custody and Placement  
20 of the children. (**Ex. 4**, p. 323, l. 15 to p. 324, l. 6)

21 31. In Dependency Proceedings, there are several independent parties involved  
22 who are appointed by the court and involved for the children's best interests, including the  
23 CASA, FCRB, GAL, AAGs, the parents, the parents' attorneys, and in this case the doctors  
24 at Cardon. (**Ex. 4**, p. 324, l. 2 to p. 327, l. 12)

25 32. Bell identified and authenticated 82 exhibits selected from the voluminous  
26 court orders, pleadings, and reports that were filed in the Juvenile Dependency matter,  
27 JD532206. These 82 exhibits chronologically track the material Juvenile Dependency  
28 proceedings for DK and KK from the court-approved removal on 12/28/18 through the

1 Court's termination of the Juvenile proceedings on 11/9/2020. (*See, generally, Ex. 4, Ex.*  
2 **201 through 281.**

3       33. On 1/25/19, Bell filed an Addendum Report to the Juvenile Court. The Report  
4 noted the improved condition of DK and KK since becoming wards of the court. (**Ex. 216**)

5       34. On 1/29/19, Judge Udall issued an Order setting the matter for a Dependency  
6 Adjudication. The Court noted that the parents demanded the return of their "biological  
7 property" and that both parents stated they were "*suri juris.*" (**Ex. 217**)

8       35. On some pleadings Mother wrote in black marker "your offer of contract is not  
9 accepted." (**Ex. 209, 219**)

10       36. Mother and Ahmet filed a series of Affidavits in the Juvenile Court. These  
11 Affidavits sought the immediate return of the parents' "biological property." (**Ex. 202, 205,**  
12 **206, 209, 210, 211, 212, 213, 214, 215, 218, 219, 220, 221**)

13       37. On 2/12/19, Judge Jennifer Green, who became the main judge presiding over  
14 the Juvenile Dependency Proceedings following Judge Udall, Commissioner Smith's and  
15 Judge Zabor's earlier involvement, denied two pleadings and a series of 12 Affidavits filed  
16 by Jessica. (**Ex. 222**)

17       38. On 2/13/19, Judge Green conducted an Evidentiary Hearing on an Order to  
18 Show Cause and issued an Order finding that the statutes and the laws of Arizona specifically  
19 grant this Court jurisdiction to preside over dependency proceedings and rejected Mother's  
20 argument that the Court lacked jurisdiction. (**Ex. 223**)

21       39. On 2/22/19, Judge Green ordered denying any relief sought by Mother's  
22 Affidavit filed 2/12/19. (**Ex. 224**)

23       40. On 5/7/19, the FCRB filed its findings and recommendations with the Juvenile  
24 Court. (**Ex. 225**)

25       41. On 6/18/19, Ahmet filed an emergency motion for the children to be tested and  
26 treated for mold toxins. (**Ex. 226**)

27       42. On 6/25/19, Judge Green agreed with the position offered by the GAL and  
28 ordered that an independent specialist from Phoenix Children's Hospital shall review the

1 boys' medical records and assess whether testing for mold exposure would be appropriate.  
2 **(Ex. 229)**

3 43. On 7/11/19, Ahmet filed a Motion for Reconsideration of the 6/25/19 Order.  
4 **(Ex. 230)**

5 44. On 7/26/19, Dr. Jodi Carter of Phoenix Children's Hospital issued her written  
6 opinions that KK and DK did not need testing for mold-related illness. **(Ex. 234, 235)**

7 45. On 8/5/19, Judge Green denied Mother's Motion for Reconsideration  
8 regarding additional mold testing. **(Ex. 236)**

9 46. On 12/2/19, Dr. Michael B. Kelly issued a report that was filed by DCS with  
10 the Court. **(Ex. 239)**

11 47. On 12/6/19, Bell filed her Report to the Juvenile Court for Permanency  
12 Hearing, and on 12/16/19, CASA Stark filed a Court Report. **(Ex. 240, 241)**

13 48. On 12/20/19, AAG Martoncik filed a Response pleading stating the  
14 Department has never alleged Mother has Fictitious Disorder by Proxy. **(Ex. 242, p. 2-3)**

15 49. On 12/26/19, Mother filed a Motion to Dismiss the Amended Pendency  
16 Petition. **(Ex. 244)**

17 50. On 1/6/2020, DCS, through AAG Martoncik, filed the Second Amended  
18 Dependency Petition. **(Ex. 246)**

19 51. On 1/6/2020, the Adjudication Hearing was held before Judge Green. Mother  
20 and Ahmet stipulated to the evidence, knowingly, intelligently, and voluntarily waived their  
21 right to trial and were found unable to parent due to neglect and the allegation of neglect is  
22 true. **(Ex. 247, 1/6/20 Court Order of Judge Green)**

23 52. Judge Green ordered making the children wards of the Court as dependent  
24 children. The Case Plan was Family Reunification. The Court found that DCS has made  
25 reasonable efforts to prevent the removal of the children from the home, and a continuation  
26 in the home would be contrary to the welfare of the children. **(Ex. 247, p. 4)**

27 53. On 2/19/2020, Mother filed a Motion for Change in Physical Custody pursuant  
28 to Rule 59 of the Juvenile Rules of Procedure. **(Ex. 248, and DCS objection, Ex. 248(a) and**

1 Ahmet's objection, **Ex. 249**)

2       54. On 3/2/2020, the Court issued an Order “**ASFA FINDINGS RE:  
3 REASONABLE EFFORTS TO FINALIZE THE PERMANENCY PLAN**” finding  
4 under federal and state statutes that DCS has made reasonable efforts to finalize the  
5 permanency plan for DK and KK. (**Ex. 251**)

6       55. On 4/27/2020, Bell filed a Progress Report to the Juvenile Court. (**Ex. 252**)

7       56. On 5/11/2020, Mother filed an Emergency Motion for Reconsideration and for  
8 a ruling regarding the Court’s Order precluding the testimony of Dr. Eli Newberger for late  
9 disclosure. (**Ex. 253**)

10       57. On 5/11/2020, Mother filed a Motion for Injunctive Relief to Remove Bell as  
11 DCS Case Worker alleging that she has exercised her authority in an arbitrary and  
12 unreasonable manner contrary to law. (**Ex. 254**)

13       58. On 5/11/2020, Judge Green issued an Order granting the request to preclude  
14 Dr. Newberger’s report and testimony at the 5/12/2020 Rule 59 Evidentiary Hearing for an  
15 extraordinarily late disclosure and associated unprofessional conduct. (**Ex. 255**)

16       59. On 5/11/2020, Judge Green issued a second Order deciding several pretrial  
17 motions. (**Ex. 256**)

18       60. On 5/12/2020, CASA Stark filed a CASA Court Report (**Ex. 257**)

19       61. On 5/12/2020, the first of three Rule 59 Evidentiary Hearings regarding  
20 physical custody of the Boys was held before Judge Green. Jessica testified, Bell testified,  
21 Dr. Kelly Rodriguez testified, DCS moved for a change of case plan to severance and  
22 adoption. The GAL and Jessica objected, and Ahmet and CASA did not object. The Court  
23 found that the children continued to be dependent according to the statutes and to remain  
24 wards of the Court. (**Ex. 258**)

25       62. The Court found that DCS had made reasonable efforts to finalize the  
26 permanency plan for the children. (**Ex. 258**)

27       63. On 6/11/2020, Judge Green issued an Under Advisement Ruling from the  
28 5/12/2020 Rule 59 Evidentiary Hearing that reviewed the extensive evidence that had been

1 presented to her as the finder of fact. (**Ex. 263**)

2       64. The Court reviewed the medical history of the Boys and found that the Mother  
3 did not fully comprehend the seriousness that “her own actions played in her children’s  
4 somewhat close, shocking physical condition” when they were brought to Cardon in  
5 December 2018. (**Ex. 263**, p. 3)

6       65. The Court found that Mother was not prepared to parent the children safely  
7 because she was blaming the children’s poor and dangerous health on mold, KK’s thyroid  
8 condition, food sensitivities, stress, and chemical exposure. (**Ex. 263**, p. 4)

9       66. The Court stated it reviewed all the evidence, including the exhibits, and  
10 highlighted the additional testimony and evidence it found compelling, summarizing the  
11 testimony of Dr. Oakley, Dr. Rodriguez, noting that Dr. Rodriguez maintained that Mother  
12 understood that KK’s condition was “life-threatening and that medical intervention saved  
13 KK’s life.” (**Ex. 263**, p. 5)

14       67. Mother has taken responsibility for her decisions that contributed to her  
15 children’s “extraordinary physical condition when they were admitted to Cardon in  
16 December 2018 but does not believe she harmed her children.” “Mother would not be in the  
17 position today if she had not been going down rabbit holes.” (**Ex. 263**, p. 5)

18       68. Mother’s willingness to chase down theories about things like mold, bacteria,  
19 and dry erase markers served as a detriment to her ability to make sound decisions. (**Ex. 263**,  
20 p. 6)

21       69. The Court found enlightening that Dr. Rodriguez, Karla White, and Bell agreed  
22 that prior to reunification Mother needed to demonstrate her ability to make medical  
23 decisions based in fact. (**Ex. 263**, p. 6)

24       70. The Court found Dr. Kelly’s opinions to be credible. (**Ex. 263**, p. 7)

25       71. Mother testified that to resolve the children’s food sensitivity she placed them  
26 on a diet that she should not have. Mother agreed that the diet was too restrictive and caused  
27 the children’s dangerous health conditions. The Court found that during her testimony there  
28 were signs that the children may still face a “substantial risk of harm” if returned to Mother’s

1 care. (**Ex. 263**, p. 8)

2       72. The Court found it perplexing that Mother was still blaming mold for the  
3 children's condition. (**Ex. 263**, p. 9)

4       73. The Court stated its concern about whether Mother has the ability to recognize  
5 when her children are medically distressed and need medical attention; finds little evidence  
6 to demonstrate that Mother has the common sense to seek medical attention when  
7 appropriate; weighed the evidence and finds that Mother has not met her burden in this case;  
8 found that there was substantial risk of harm to the children's physical, mental, and emotional  
9 health from Mother; and that she is still putting her own wants ahead of her children. The  
10 Court denied Mother's Motion for Change of Physical Custody and denied DCS Request to  
11 Change the Case Plan to Termination and Adoption. (**Ex. 263**, p. 9-10)

12       74. On 7/9/2020, the Court denied Mother's Motion for injunctive relief to remove  
13 DCS Case Worker Bell. (**Ex. 264**)

14       75. The Court found DCS made reasonable and diligent efforts to provide  
15 reunification services to Mother and that DCS Case Worker's efforts in providing  
16 reunification services were not unlawful or unreasonable, nor were her efforts performed in  
17 an arbitrary manner. (**Ex. 264**, p. 3)

18       76. On 8/26/2020, Judge Green issued an Order denying Mother's request to  
19 remove the CASA from this case. The Court found that the CASA has identified the  
20 children's best interests and advocated for the children in court. The Court summarized the  
21 "dizzying series of events" and found that CASA has been a steady hand as the case unfolded.  
22 The Court denied Mother's request to remove CASA that was tucked inside its rebuttal to  
23 CASA Susan Stark's report. (**Ex. 274**)

24       77. On 8/31/2020, the Court held a second Rule 59 Evidentiary Hearing and  
25 ordered granting Father's Motion for Change of Physical Custody. (**Ex. 275**)

26       78. On 9/15/2020, the Court held a third Rule 59 Evidentiary Hearing on Mother's  
27 Motion for Change of Physical Custody. Dr. Newberger, Dr. Ann Schroeckenstein and Dr.  
28 Celice Korsten testified for Mother. The Court took the matter under advisement. (**Ex. 275**)

1        79. On 10/30/2020, Bell filed her last Report to the Juvenile Court. (**Ex. 278**)

2        80. On 11/9/2020, Judge Green ordered the dismissal of the Dependency Action  
3 releasing the children from the wardship of the court and relieving DCS of further  
4 responsibility for the children. The Court relieved FCRB, all court-appointed attorneys, and  
5 the GAL of further responsibility in this case. All outstanding motions are moot. (**Ex. 281**)

6        81. On 11/10/2020, the CASA filed its last report to the Court. (**Ex. 280**)

7        82. Bell followed statutory requirements, had a reasonable basis for all actions  
8 taken as an ongoing Case Worker, did not make misrepresentations to the Court and did not  
9 act in an arbitrary or unreasonable manner. (**Ex. 4**, p. 405, l. 3 to p. 408, l. 22)

10        83. Temple was the ongoing DCS Supervisor over Bell in the dependency action.  
11 (**Ex. 5**, p. 253 to p. 330) (Much of Temple's testimony is duplicative of Bell and Kramer,  
12 and will not be presented in detail to accommodate page limitations.)

13        84. All the independent persons and agencies that the Court appointed filed  
14 Reports and Recommendations with the Court. (**Ex. 5**, p. 283, l. 9-13)

15        85. It is for the Court to decide which opinions to accept, reject, or accept in part  
16 and reject in part because that is the function of the Court. (**Ex. 5**, p. 283, l. 15-20)

17        86. Temple noted the Court Orders that found DCS had made reasonable efforts  
18 to prevent the removal of the children from the home and that continuation in the home  
19 would be contrary to their welfare. (**Ex. 5**, p. 290, l. 2-9; p. 310, l. 10-15; p. 313, l. 6-10)

20        87. Temple noted the Court's finding in the 8/26/2020 Order that Mother's history  
21 included asking the Court to remove the DCS Case Worker, remove the Southwest Human  
22 Development Service provider, remove the CASA, and refused to be assessed by Dr. Michael  
23 Kelly. (**Ex. 5**, p. 314, l. 13 to p. 315, l. 25, **Ex. 274**)

24        88. Temple and Bell's involvement ended with Judge Green's Termination Order  
25 on 11/9/2020. (**Ex. 281**)

26        89. Temple acted at all times lawfully, reasonably, with a reasonable basis for all  
27 actions taken as a supervisor and never interfered with Jessica's efforts to regain custody of  
28 the boys. (**Ex. 5**, p. 327, l. 11 to p. 330, l. 18)

DATED this 16<sup>th</sup> day of December, 2024.

**BRUECKNER SPITLER SHELTS PLC**

By: /s/ *Larry J. Crown*

Larry J. Crown  
Elan S. Mizrahi

*Attorneys for Defendants The State of Arizona, Arizona Department of Child Safety (“DCS”), Sarah Kramer, Sarah Mendez, Madison Bell, Mecca Temple, Gregory McKay, and Michael Faust*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 16<sup>th</sup> day of December, 2024, I electronically transmitted the foregoing document to be filed electronically with the Clerk’s Office through the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to be served on all counsel of record via the Court’s CM/ECF system.

/s/ *Karin A. Meister*

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